

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.327 OF 1999

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

CHAMPAKBHAI DIPSIKH CHAUHAN
VERSUS
THE EXECUTIVE ENGINEER & ORS.

Appearance:

None present for Petitioner
MR VB GHARANIA for Respondents

Coram: MR.JUSTICE S.K. Keshote,J
Date of decision: 15/08/1999

C.A.V. JUDGMENT

#. Rule. Mr.Gharania waives service of Rule on behalf

of respondents.

#. The petitioners, four in number, filed this writ petition and prayed for quashing and setting aside the order of respondent No.1 dated 5.1.99, under which they are allocated/ transferred to the office of the Executive Engineer, Water Resources Circle No.1, Ahmedabad. Prayer has also been made for grant of interim relief, i.e. restraining the respondents from transferring and/or allocating the petitioners from the office of respondents No.1 and 2 to the office of the Executive Engineer, Water Resources Circle No.1, Ahmedabad, in pursuance to the order dated 5.1.99 impugned in this Special Civil Application.

#. The Special Civil Application has come up for preliminary hearing in the Court on 15.1.99 and interim relief has been granted in terms of para-9(C). So the order impugned in this Special Civil Application has not been given effect to. Reply to the Special Civil Application has been filed by respondents and therein they admitted that the petitioners are in service. It is the case of respondents that because of surplus staff in the Circle concerned, the petitioners were declared surplus therefrom as per their seniority and they have been sent to the other Circle. This seniority list has been prepared Circle wise. However, the respondents admit that the petitioners are daily wagers. The fact that the petitioners are in service as daily wagers since 1984-85 is also not in dispute. Looking to the nature of service of the petitioners, now posting them at a distance place from their residence prima-facie puts them in very hard and difficult position. However, when they have been declared surplus from one Circle, they have to be absorbed elsewhere. The apprehension of the petitioners is that they are likely to be posted at Kutchh-Bhuj. I find from the Special Civil Application that the petitioners' lands were acquired in the year 1983-84 by the respondent-State for the Guhai Irrigation Project scheme and as they lost their livelihood, they have been given daily wage appointment. It is also stated in the Special Civil Application that the petitioners can be accommodated in new irrigation project which have recently been started. It is understandable where the petitioners are made regular and permanent employees they may be posted at a distance place but so long as they continue as daily wagers, posting of these persons at distance place, i.e. Kutchh-Bhuj may not be reasonable. Interim relief is continuing for all this time. This Special Civil Application is disposed of with the directions to the respondents to adjust the

petitioners at nearby place of their residence. However, in case it is not possible, a reasoned order may be passed and a copy of the same may be given to the petitioners. Till this exercise is undertaken and final order is passed, interim relief granted by this Court shall continue and it shall continue for further fifteen days from the date of receipt of the order by the petitioners. Liberty is granted to the petitioners for revival of this Special Civil Application in case of difficulty. Rule stands disposed of in aforesaid terms with no order as to costs.

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(sunil)